

# STATE OF NEW YORK

3655--A

2019-2020 Regular Sessions

## IN SENATE

February 11, 2019

Introduced by Sens. SALAZAR, HOYLMAN, RIVERA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, in relation to interim multiple dwellings; and to amend chapter 4 of the laws of 2013 amending the real property tax law and other laws relating to interim multiple dwellings in a city with a population of one million or more, in relation to making certain provisions permanent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 5 of section 281 of the multiple dwelling law, as amended by chapter 4 of the laws of 2013, is amended to read as follows:

5. (a) Notwithstanding the provisions of paragraphs (i), (iii) and (iv) of subdivision two of this section, but subject to paragraphs (i) and (ii) of subdivision one of this section and paragraph (ii) of subdivision two of this section, the term "interim multiple dwelling" shall include buildings, structures or portions thereof that are located in a city of more than one million persons which were occupied for residential purposes as the residence or home of any three or more families living independently from one another for a period of twelve consecutive months during the period commencing January first, two thousand eight, and ending December thirty-first, two thousand nine, provided that the unit seeking coverage: is not located in a [~~basement or~~] cellar and has at least one entrance that does not require passage through another residential unit to obtain access to the unit, [~~has at least one window opening onto a street or a lawful yard or court as defined in the zoning resolution for such municipality,~~] and is at least four hundred square feet in area.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) The term "interim multiple dwelling" as used in this subdivision shall not include (i) any building in an industrial business zone established pursuant to chapter six-D of title twenty-two of the administrative code of the city of New York except that a building in the Williamsburg/Greenpoint or North Brooklyn industrial business zones and a building located in that portion of the Long Island city industrial business zone that has frontage on either side of forty-seventh avenue or is located north of forty-seventh avenue and south of Skillman avenue or in that portion of the Long Island city industrial business zone that is located north of forty-fourth drive, south of Queens plaza north, and west of twenty-third street may be included in the term "interim multiple dwelling," or (ii) units in any building, other than a building that is already defined as an "interim multiple dwelling" pursuant to subdivision one, two, three or four of this section, that, at the time this subdivision shall take effect and continuing ~~at~~ until the time of the submission of an application for coverage by any party, also contains a use in legal operation, actively and currently pursued, which use is set forth in use ~~[groups fifteen through]~~ group eighteen, as described in the zoning resolution of such municipality in effect on June twenty-first, two thousand ten, and which the loft board has determined in rules and regulation is inherently incompatible with residential use in the same building by creating an actual risk of harm which cannot be reasonably mitigated, provided that the loft board may by rule exempt categories of units or buildings from such use incompatibility determinations including but not limited to residentially occupied units or subcategories of such units, and provided, further that if a building does not contain such active uses at the time this subdivision takes effect, no subsequent use by the owner of the building shall eliminate the protections of this section for any residential occupants in the building already qualified for such protections. A party opposing coverage pursuant to this subdivision shall bear the burden of proving the exception to coverage set forth in subparagraph (ii) of this paragraph.

(c) The term "interim multiple dwelling," as used in this subdivision shall also include buildings, structures or portions thereof that are located north of West 24th Street and south of West 27th Street and west of tenth avenue and east of eleventh avenue in a city of more than one million persons which were occupied for residential purposes as the residence or home of any two or more families living independently from one another for a period of twelve consecutive months during the period commencing January first, two thousand eight, and ending December thirty-first, two thousand nine and subject to all the conditions and limitations of this subdivision other than the number of units in the building. A reduction in the number of occupied residential units in a building after meeting the aforementioned twelve consecutive month requirement shall not eliminate the protections of this section for any remaining residential occupants qualified for such protections. Non-residential space in a building as of the effective date of this subdivision shall be offered for residential use only after the obtaining of a residential certificate of occupancy for such space and such space shall be exempt from this article, even if a portion of such building may be an interim multiple dwelling.

§ 2. Section 281 of the multiple dwelling law is amended by adding a new subdivision 6 to read as follows:

6. (a) Notwithstanding the provisions of paragraphs (i), (iii) and (iv) of subdivision two of this section, but subject to paragraphs (i) and (ii) of subdivision one of this section and paragraph (ii) of subdivi-

1 vision two of this section, the term "interim multiple dwelling" shall  
2 include buildings, structures or portions thereof that are located in a  
3 city of more than one million persons which were occupied for residen-  
4 tial purposes as the residence or home of any three or more families  
5 living independently from one another for a period of twelve consecutive  
6 months during the period commencing January first, two thousand fifteen,  
7 and ending December thirty-first, two thousand sixteen, provided that  
8 the unit seeking coverage: is not located in a cellar and has at least  
9 one entrance that does not require passage through another residential  
10 unit to obtain access to the unit, and is at least four hundred square  
11 feet in area.

12 (b) The term "interim multiple dwelling" as used in this subdivision  
13 shall not include (i) any building in an industrial business zone estab-  
14 lished pursuant to chapter six-D of title twenty-two of the administra-  
15 tive code of the city of New York except that a building in the  
16 Williamsburg/Greenpoint or North Brooklyn industrial business zones and  
17 a building located in that portion of the Long Island city industrial  
18 business zone that has frontage on either side of forty-seventh avenue  
19 or is located north of forty-seventh avenue and south of Skillman avenue  
20 or in that portion of the Long Island city industrial business zone that  
21 is located north of forty-fourth drive, south of Queens plaza north, and  
22 west of twenty-third street may be included in the term "interim multi-  
23 ple dwelling", or (ii) units in any building, other than a building that  
24 is already defined as an "interim multiple dwelling" pursuant to subdi-  
25 vision one, two, three, four or five of this section, that, at the time  
26 this subdivision shall take effect and continuing until the time of the  
27 submission of an application for coverage by any party, also contains a  
28 use in legal operation, actively and currently pursued, which use is set  
29 forth in use group eighteen, as described in the zoning resolution of  
30 such municipality in effect on June twenty-first, two thousand ten, and  
31 which the loft board has determined in rules and regulation is inherent-  
32 ly incompatible with residential use in the same building by creating an  
33 actual risk of harm which cannot be reasonably mitigated, provided that  
34 the loft board may by rule exempt categories of units or buildings from  
35 such use incompatibility determinations including but not limited to  
36 residentially occupied units or subcategories of such units, and  
37 provided, further that if a building does not contain such active uses  
38 at the time this subdivision takes effect, no subsequent use by the  
39 owner of the building shall eliminate the protections of this section  
40 for any residential occupants in the building already qualified for such  
41 protections. A party opposing coverage pursuant to this subdivision  
42 shall bear the burden of proving the exception to coverage set forth in  
43 subparagraph (ii) of this paragraph.

44 (c) The term "interim multiple dwelling", as used in this subdivision  
45 shall also include buildings, structures or portions thereof that are  
46 located north of West 24th Street and south of West 27th Street and west  
47 of tenth avenue and east of eleventh avenue in a city of more than one  
48 million persons which were occupied for residential purposes as the  
49 residence or home of any two or more families living independently from  
50 one another for a period of twelve consecutive months during the period  
51 commencing January first, two thousand fifteen, and ending December  
52 thirty-first, two thousand sixteen and subject to all the conditions and  
53 limitations of this subdivision other than the number of units in the  
54 building. A reduction in the number of occupied residential units in a  
55 building after meeting the aforementioned twelve consecutive month  
56 requirement shall not eliminate the protections of this section for any

1 remaining residential occupants qualified for such protections. Non-re-  
2 sidential space in a building as of the effective date of this subdivi-  
3 sion shall be offered for residential use only after the obtaining of a  
4 residential certificate of occupancy for such space and such space shall  
5 be exempt from this article, even if a portion of such building may be  
6 an interim multiple dwelling.

7 § 3. Section 282 of the multiple dwelling law, as amended by chapter  
8 147 of the laws of 2010, is amended to read as follows:

9 § 282. Establishment of special loft unit. 1. In order to resolve  
10 complaints of owners of interim multiple dwellings and of residential  
11 occupants of such buildings qualified for the protection of this arti-  
12 cle, and to act upon hardship applications made pursuant to this arti-  
13 cle, a special loft unit referred to herein as the "loft board" shall be  
14 established which shall consist of from four to nine members represen-  
15 tative of the public, the real estate industry, loft residential  
16 tenants, and loft manufacturing interests, and a chairperson, all to be  
17 appointed by the mayor of the municipality and to serve such terms as he  
18 may designate. The compensation of the members of the loft board shall  
19 be fixed by the mayor. The members of the loft board shall not be  
20 considered employees of the state or the municipality, provided, howev-  
21 er, that state or municipal employees or officers may be named to the  
22 loft board. The mayor shall establish the loft board within ninety days  
23 of the effective date of chapter three hundred forty-nine of the laws of  
24 nineteen hundred eighty-two. The loft board shall have such office and  
25 staff as shall be necessary to carry out functions conferred upon it and  
26 may request and receive assistance from any state or municipal agency or  
27 department. The loft board shall have the following duties: ~~[(a)]~~ (i)  
28 the determination of interim multiple dwelling status and other issues  
29 of coverage pursuant to this article; ~~[(b)]~~ (ii) the resolution of all  
30 hardship appeals brought under this article; ~~[(c)]~~ (iii) the determi-  
31 nation of any claim for rent adjustment under this article by an owner  
32 or tenant; ~~[(d)]~~ (iv) the issuance, after a public hearing, and the  
33 enforcement of rules and regulations governing minimum housing mainte-  
34 nance standards in interim multiple dwellings (subject to the provisions  
35 of this chapter and any local building code), rent adjustments prior to  
36 legalization, compliance with this article and the hearing of complaints  
37 and applications made to it pursuant to this article; and ~~[(e)]~~ (v)  
38 determination of controversies arising over the fair market value of a  
39 residential tenant's fixtures or reasonable moving expenses.

40 2. The violation of any rule or regulation promulgated by the loft  
41 board shall be punishable by a civil penalty determined by the loft  
42 board not to exceed ~~[seventeen thousand five hundred]~~ twenty-five thou-  
43 sand dollars which may be recovered by the municipality by a proceeding  
44 in any court of competent jurisdiction. The corporation counsel may  
45 bring and maintain a civil proceeding in the name of the city in the  
46 supreme court of the county in which the building, erection or place is  
47 located to enjoin violations of this article. The loft board may desig-  
48 nate provisions of such rules and regulations for enforcement in  
49 proceedings before the environmental control board of such municipality.  
50 Notices of violation returnable to such environmental control board may  
51 be issued by officers and employees of the department of buildings of  
52 such municipality and served in the same manner as violations returnable  
53 to such board within the jurisdiction of such department. The environ-  
54 mental control board, when acting as the designee of the loft board,  
55 shall have the power to impose civil penalties, not to exceed ~~[seven-~~  
56 ~~teen]~~ twenty-five thousand ~~[five hundred]~~ dollars for each violation,

1 and to issue judgments, which may be docketed and enforced as set forth  
2 in section one thousand forty-nine-a of the New York city charter.

3 3. The loft board may charge and collect reasonable fees in the  
4 execution of its responsibilities. The loft board may administer oaths,  
5 take affidavits, hear testimony, and take proof under oath at public or  
6 private hearings.

7 § 4. Section 282-a of the multiple dwelling law, as amended by section  
8 22 of part A of chapter 20 of the laws of 2015, is amended to read as  
9 follows:

10 § 282-a. Applications for coverage of interim multiple dwellings and  
11 residential units. [~~1. All applications for registration as an interim  
12 multiple dwelling or for coverage of residential units under this arti-  
13 cle shall be filed with the loft board within six months after the date  
14 the loft board shall have adopted all rules or regulations necessary in  
15 order to implement the provisions of chapter one hundred forty-seven of  
16 the laws of two thousand ten, provided, however, that applications for  
17 registration as an interim multiple dwelling or for coverage of residen-  
18 tial units under this article may also be filed for a two-year period  
19 starting from the effective date of the chapter of the laws of two thou-  
20 sand fifteen which amended this section. The loft board may subsequently  
21 amend such rules and regulations but such amendments shall not recom-  
22 mence the time period in which applications may be filed.~~

23 ~~2.~~] Where any occupant has filed an application for coverage pursuant  
24 to this article and has received a docket number from the loft board, it  
25 shall be unlawful for an owner to cause or intend to cause such occupant  
26 to vacate, surrender or waive any rights in relation to such occupancy,  
27 due to repeated interruptions or discontinuances of essential services,  
28 or an interruption or discontinuance of an essential service for an  
29 extended duration or of such significance as to substantially impair  
30 habitability of such unit, at any time before the loft board has made a  
31 final determination, including appeals, to approve or deny such applica-  
32 tion. This section shall not grant any rights of continued occupancy  
33 other than those otherwise granted by law. Any agreement that waives or  
34 limits the benefits of this section shall be deemed void as against  
35 public policy. In addition to any other remedies provided in this arti-  
36 cle for failure to be in compliance, in article eight of this chapter,  
37 or in the regulations promulgated by the loft board, an occupant who has  
38 filed an application with the loft board for coverage under this article  
39 may commence an action or proceeding in a court of competent jurisdic-  
40 tion, which notwithstanding any other provision of law shall include the  
41 housing part of the New York city civil court, to enforce the provisions  
42 of this section.

43 § 5. Paragraph (vi) of subdivision 1 of section 284 of the multiple  
44 dwelling law, as amended by section 22-a of part A of chapter 20 of the  
45 laws of 2015, is amended to read as follows:

46 (vi) Notwithstanding the provisions of paragraphs (i) through (v) of  
47 this subdivision the owner of an interim multiple dwelling made subject  
48 to this article by subdivision five of section two hundred eighty-one of  
49 this article (A) shall file an alteration application on or before March  
50 twenty-first, two thousand eleven, or, for units that became subject to  
51 this article pursuant to chapter four of the laws of two thousand thir-  
52 teen on or before June eleventh, two thousand fourteen, or, for units  
53 that became subject to this article pursuant to the chapter of the laws  
54 of two thousand nineteen that amended this paragraph within nine months  
55 from such effective date, or for units in an interim multiple dwelling  
56 that were listed on an application for coverage or registration filed



1 with the loft board pursuant to this article or in a court pleading  
2 after March eleventh, two thousand fourteen, within nine months of  
3 either the date of the initial application for coverage or the date of  
4 the loft board's issuance of an interim multiple dwelling number or the  
5 date of the service of the pleading, whichever is earlier, and (B) shall  
6 take all reasonable and necessary action to obtain an approved alter-  
7 ation permit on or before June twenty-first, two thousand eleven, or,  
8 for units that became subject to this article pursuant to chapter four  
9 of the laws of two thousand thirteen on or before September eleventh,  
10 two thousand fourteen, or, for units that became subject to this article  
11 pursuant to the chapter of the laws of two thousand nineteen that  
12 amended this paragraph within twelve months from such effective date, or  
13 for units in an interim multiple dwelling that were listed on an appli-  
14 cation for coverage or registration filed with the loft board pursuant  
15 to this article or in a court pleading after March eleventh, two thou-  
16 sand fourteen, within twelve months of either the date of the initial  
17 application for coverage or the date of the loft board's issuance of an  
18 interim multiple dwelling number or the date of the service of the  
19 pleading, whichever is earlier, and (C) shall achieve compliance with  
20 the standards of safety and fire protection set forth in article seven-B  
21 of this chapter for the residential portions of the building within  
22 eighteen months from obtaining such alteration permit, and (D) shall  
23 take all reasonable and necessary action to obtain a certificate of  
24 occupancy as a class A multiple dwelling for the residential portions of  
25 the building or structure on or before December twenty-first, two thou-  
26 sand twelve, or for units that became subject to this article pursuant  
27 to chapter four of the laws of two thousand thirteen on or before March  
28 eleventh, two thousand sixteen, or, for units that became subject to  
29 this article pursuant to the chapter of the laws of two thousand nine-  
30 teen that amended this paragraph within thirty-six months from such  
31 effective date, or for units in an interim multiple dwelling that were  
32 listed on an application for coverage or registration filed with the  
33 loft board pursuant to this article or in a court pleading after March  
34 eleventh, two thousand sixteen, within thirty months of either the date  
35 of the initial application for coverage or the date of the loft board's  
36 issuance of an interim multiple dwelling number or the date of the  
37 service of the pleading, whichever is earlier. The loft board may, upon  
38 good cause shown, and upon proof of compliance with the standards of  
39 safety and fire protection set forth in article seven-B of this chapter,  
40 twice extend the time of compliance with the requirement to obtain a  
41 residential certificate of occupancy for periods not to exceed twelve  
42 months each.

43 § 6. Paragraphs (vii), (viii), (ix), (x) and (xi) of subdivision 1 and  
44 subdivision 2 of section 284 of the multiple dwelling law, paragraphs  
45 (vii), (viii), (ix), (x) and (xi) of subdivision 1 as amended by chapter  
46 135 of the laws of 2010 and subdivision 2 as added by chapter 349 of the  
47 laws of 1982, are amended to read as follows:

48 (vii) Notwithstanding the provisions of paragraphs (i) through (vi) of  
49 this subdivision the owner of an interim multiple dwelling made subject  
50 to this article by subdivision six of section two hundred eighty-one of  
51 this article (A) shall file an alteration application within nine months  
52 from the effective date of the chapter of the laws of two thousand nine-  
53 teen that amended this paragraph, and (B) shall take all reasonable and  
54 necessary action to obtain an approved alteration permit within twelve  
55 months from such effective date, and (C) shall achieve compliance with  
56 the standards of safety and fire protection set forth in article seven-B

1 of this chapter for the residential portions of the building within  
2 eighteen months from obtaining such alteration permit or eighteen months  
3 from such effective date, whichever is later, and (D) shall take all  
4 reasonable and necessary action to obtain a certificate of occupancy as  
5 a class A multiple dwelling for the residential portions of the building  
6 or structure within thirty-six months from such effective date. The  
7 loft board may, upon good cause shown, and upon proof of compliance with  
8 the standards of safety and fire protection set forth in article seven-B  
9 of this chapter, twice extend the time of compliance with the require-  
10 ment to obtain a residential certificate of occupancy for periods not to  
11 exceed twelve months each.

12 (viii) An owner who is unable to satisfy any requirement specified in  
13 paragraph (ii), (iii), (iv), (v), ~~[ex]~~ (vi), or (vii) of this subdivi-  
14 sion for reasons beyond his/her control, including, but not limited to,  
15 a requirement to obtain a certificate of appropriateness for modifica-  
16 tion of a landmarked building, a need to obtain a variance from a board  
17 of standards and appeals, or the denial of reasonable access to a resi-  
18 dential unit as required by paragraph ~~(xi)~~ (xii) of this subdivision,  
19 may apply to the loft board for an extension of time to meet the  
20 requirement specified in paragraph (ii), (iii), (iv), (v), ~~[ex]~~ (vi), or  
21 (vii) of this subdivision. The loft board may grant an extension of time  
22 to meet a requirement specified in paragraph (ii), (iii), (iv), (v),  
23 ~~[ex]~~ (vi), or (vii) of this subdivision provided that the owner demon-  
24 strates that he/she has made good faith efforts to satisfy the require-  
25 ments.

26 ~~(viii)~~ (ix) If there is a finding by the loft board that an owner  
27 has failed to satisfy any requirement specified in paragraph (i), (ii),  
28 (iii), (iv), (v), ~~[ex]~~ (vi), or (vii) of this subdivision, such owner  
29 shall be subject to all penalties set forth in article eight of this  
30 chapter.

31 ~~(ix)~~ (x) In addition to the penalties provided in article eight of  
32 this chapter, if there is a finding by the loft board that an owner has  
33 failed to satisfy any requirement specified in paragraph (i), (ii),  
34 (iii), (iv), (v), ~~[ex]~~ (vi), or (vii) of this subdivision, a court may  
35 order specific performance to enforce the provisions of this article  
36 upon the application of three occupants of separate residential units,  
37 qualified for the protection of this article, or upon the application of  
38 the municipality.

39 ~~(x)~~ (xi) If, as a consequence of an owner's unlawful failure to  
40 comply with the provisions of paragraph (i), (ii), (iii), (iv), (v),  
41 ~~[ex]~~ (vi), or (vii) of this subdivision, any residential occupant quali-  
42 fied for protection pursuant to this article is required to vacate his  
43 or her unit as a result of a municipal vacate order, such occupant may  
44 recover from the owner the fair market value of any improvements made by  
45 such tenant and reasonable moving costs. Any vacate order issued as to  
46 such unit by a local government shall be deemed an order to the owner to  
47 correct the non-compliant conditions, subject to the provisions of this  
48 article. Furthermore, when such correction has been made, such occupant  
49 shall have the right to re-occupy his or her unit and shall be entitled  
50 to all applicable tenant protections of this article.

51 ~~(xi)~~ (xii) The occupants of a building shall, upon appropriate  
52 notice regarding the timing and scope of the work required, afford the  
53 owner reasonable access to their units so that the work necessary for  
54 compliance with this article can be carried out. Access shall also be  
55 afforded, upon reasonable prior notice, for the purpose of inspecting  
56 and surveying units as may be required to comply with the provisions of

1 this article and article seven-B of this chapter. Failure to comply with  
2 an order of the loft board regarding access shall be grounds for  
3 eviction of a tenant.

4 2. Every owner of an interim multiple dwelling, every lessee of a  
5 whole building part of which is an interim multiple dwelling, and every  
6 agent or other person having control of such a dwelling, shall, within  
7 sixty days of the effective date of the act which added this article,  
8 file with the loft board or any other authority designated by the mayor  
9 a notice in conformity with all provisions of section three hundred  
10 twenty-five of this chapter and with rules and regulations to be promul-  
11 gated by the loft board.

12 § 7. Subparagraphs (A) and (B) of paragraph (ii) of subdivision 2 of  
13 section 286 of the multiple dwelling law, as amended by chapter 4 of the  
14 laws of 2013, are amended to read as follows:

15 (A) Upon the owners' filing of an alteration application, as required  
16 by [~~paragraph~~] paragraphs (ii), (iii), (iv), (v), [~~or~~] (vi), and (vii)  
17 of subdivision one of section two hundred eighty-four of this article,  
18 an adjustment equal to three percent of the rent in effect at the time  
19 the owner files the alteration application.

20 (B) Upon obtaining an alteration permit, as required by [~~paragraph~~]  
21 paragraphs (ii), (iii), (iv), (v), [~~or~~] (vi), and (vii) of subdivision  
22 one of section two hundred eighty-four of this article, an adjustment  
23 equal to three percent of the rent in effect at the time the owner  
24 obtains the alteration permit.

25 § 8. Subdivisions (f), (g) and (h) of section 27 of chapter 4 of the  
26 laws of 2013 amending the real property tax law and other laws relating  
27 to interim multiple dwellings in a city with a population of one million  
28 or more, subdivision (h) as amended by section 21 of part A of chapter  
29 20 of the laws of 2015, are amended to read as follows:

30 (f) sections eighteen, nineteen and twenty of this act shall be deemed  
31 to have been in full force and effect on and after June 1, 2011; and

32 (g) notwithstanding any inconsistent provision of this act, the amend-  
33 ment to subdivision 5 of section 281 of the multiple dwelling law made  
34 by section twenty-one of this act in relation to the authority of the  
35 loft board to exempt categories or subcategories of units or buildings  
36 by rule from determinations of inherently incompatible uses shall be  
37 deemed to have been in force and effect on and after June 21, 2010 and  
38 to authorize rules of the loft board promulgated after such date that  
39 make such exemptions[~~, and~~

40 ~~(h) sections twenty-one, twenty-two, twenty-three and twenty-four~~  
41 ~~shall expire and be deemed repealed on June 30, 2019].~~

42 § 9. No provision of this act or article 7-C of the multiple dwelling  
43 law, as amended by this act, or any other law or prior judgment, shall  
44 be construed to prevent an application from being filed with the loft  
45 board and considered by such board, or a claim in a court of competent  
46 jurisdiction, for coverage or for registration as an interim multiple  
47 dwelling or units within a building, including those previously deter-  
48 mined not to be covered, where the basis for such application or claim  
49 is that such building or units are subject to such article as a result  
50 of the amendments made by this act.

51 § 10. This act shall take effect immediately, and shall apply to  
52 applications pending approval or on appeal on and after such date.